

insulation film 23 and a multilayer gate electrode film 22. As such, although these embodiments contain individual distinctions, it is respectfully submitted that the search and examination of these different embodiments will be so closely inter-related as to justify common examination. Such common examination is certainly encouraged by MPEP §803 (under the heading Restriction-When Proper) which states:

*"[I]f the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions."*  
[underlining added]

In the present instance, as noted above, all of the embodiments in question include the same essential elements of the tower like gate pillar, the gate insulation film and the multilayer gate electrode film. Therefore, it is respectfully submitted that common search and examination will not create an undue burden on the Examiner, and, accordingly, common examination is respectfully requested. (Together with the removal of the Election of Species requirement).

With regard to the distinctions of embodiments of Figs. 2, 5 and 7, a discussion of this begins on page 20 of the Specification. However, in each instance, it is noted how closely the respective second, third and fourth embodiments of Figs. 2, 5 and 7 are related to the first embodiment of Fig. 1.

For example, with regard to the embodiment of Fig. 2, it is stated on page 20, in the last paragraph that:

"Next, a second embodiment of the present invention is described below using Figs. 2 and 3. It is basically possible to take either of the configurations used in the description of Fig. 1."

Following this, the description proceeds with regard to an ion implantation process used in the second embodiment. However, since the applicants have elected the device claims, it is noted that the structure of Fig. 2 is very closely related to that of Fig. 1. Therefore, it is respectfully submitted that examination of these two embodiments (that is, Fig. 1 and Fig. 2) together would not create an undue burden

on the Examiner, and, accordingly, such common examination is respectfully requested.

With regard to the embodiment of Fig. 5, this is described on page 22, beginning in the last paragraph. With regard to this, it is stated:

"Next, a third embodiment of the present invention is shown below using Fig. 5. It is basically possible to take the embodiment shown in Fig. 1. The present embodiment features a manufacturing method. "

Following this, a description is made of the method differences in the later steps of processing, relative to Fig. 1, with such differences being shown in Fig. 6. In particular, in the embodiment of Fig. 5, the insulation layer 30 is formed in a more peripheral location on the outer surface of the gate electrode upper portion 22b, rather than between the gate electrode lower portion 22a and the gate electrode upper portion 22b (as found in the first embodiment). Notwithstanding this difference, any search for Fig. 5 (and examination thereof) will cover very similar issues to that involved in the embodiment of Fig. 1. Therefore, again, it is respectfully submitted that these two embodiments should be considered together, and removal of the Election of Species Requirement regarding these two embodiments is respectfully requested.

Finally, the embodiment of Fig. 7 is discussed beginning with the last paragraph on page 24. With regard to this, it is stated:

"Another embodiment of the present invention is outlined in Fig. 7. It is basically possible to take either of the configurations shown in the embodiment of Fig. 1.

Thus, again, a close relationship is established in the Specification between the embodiment of Fig. 7 and Fig. 1.

With regard to the specifics of Fig. 7, this shows an arrangement wherein the end of the first electrode film 22a of the gate electrode extends further above the substrate than the end of the second electrode film 22b (as discussed in the sentence bridging the pages 24 and 25). Although this has certain advantages, as

discussed on page 25, it is noted that, once again, the search for the multilayer gate electrode structure of Fig. 7 will be extremely similar to that for Fig. 1 (as will the examination). Thus, again, it is respectfully submitted that the close relationship between these two embodiments justifies common examination, and reconsideration and removal of the Election of Species Requirement regarding this is respectfully requested.

In addition to traversing the overall Election of Species Requirement for the reasons set forth above, applicants also respectfully traverse on the grounds that at least independent claims 1 and 2 are generic to all of the embodiments. Specifically, each of these claims includes the power like gate pillar (e.g., 24), a gate insulation film (e.g., 23) and a multilayer gate electrode film (e.g., 22) found in all of the embodiments of Figs. 1, 2, 5 and 7. As such, it is respectfully submitted that both of the independent claims 1 and 2 are generic to the four species in questions, and, accordingly, designation of these claims as generic is respectfully requested. Also, if either of the independent claims 1 and 2 are allowed, it is respectfully requested that the Election of Species Requirement be removed and that all dependent claims presently pending in the application be allowed.

Notwithstanding the above traverse, in order to be fully responsive to the Election of Species Requirement, applicants hereby elect Species 1 (directed to Fig. 1) as noted above, and further note that claims 1-3 and 6-9 read on the elected species.

If the Examiner believes that there are any other points which may be clarified or otherwise disposed of either by telephone discussion or by personal interview, the Examiner is invited to contact Applicants' undersigned attorney at the number indicated below.

To the extent necessary, applicants petition for an extension of time under 37 CFR §1.136. Please charge any shortage in the fees due in connection with the

filing of this paper, to the Deposit Account of Antonelli, Terry, Stout & Kraus, LLP,  
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Respectfully submitted,  
**ANTONELLI, TERRY, STOUT & KRAUS, LLP**

A handwritten signature in black ink, appearing to read "Gregory E. Montone", is written over a horizontal line.

Gregory E. Montone  
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